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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,462	10/30/2003	Jayson D. Stahler	N9783	7962
23456	7590	06/17/2004	EXAMINER	
WADDEY & PATTERSON 414 UNION STREET, SUITE 2020 BANK OF AMERICA PLAZA NASHVILLE, TN 37219			FOX, CHARLES A	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/697,462

Applicant(s)

STAHLER ET AL.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Augustin. Regarding claim 1 Augustin DE 3,618,791 discloses a roof top carrier comprising:

first and second side structures (16) for engaging the side of a vehicle;

a storage chamber spanning the support structures, and positioned above a roof opening (120) such that the opening is not blocked and any weight in the carrier is transferred to the vehicle sides;

a floor arranged and spaced above the vehicle roof (see figure 3);

a lid (18) covering the storage chamber and movable between an open and a closed position.

In regards to claim 2 Augustin further discloses that the device transfers all forces acting upon it to the vehicle sides such that the carrier remains on the vehicle during highway traveling.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agustin as applied to claim 1 above, and further in view of DiPalma et al. Agustin teaches the limitations of claim 1 as above, he does not teach a sealing member for the lid. DiPalma et al. US 4,974,766 teaches a rack mounted transport chamber comprising :

a floor member (14) arranged to be located above and spaced from the roof of a transport vehicle;

a lid (12) covering the storage chamber and movable between an open position and a closed position;

a fluid tight seal (16) being placed between the lid (12) and floor member (14) so that no precipitation enters the storage chamber during transit;

a piston (150) attached between the lid (12) and floor member (14) of the storage chamber to allow the lid to be opened and closed with assistance by the piston. It would have been obvious to one of ordinary skill in the art, at the time of invention to

provide the device taught by Agustin with the seal and piston taught by DiPalma et al. in order to keep material being transported in the carrier dry.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agustin in view of DiPalma et al. as applied to claim 4 above, and further in view of Mantino. Agustin in view of DiPalma et al. teach the limitations of claim 4 as above they do not teach a lifting device for the storage rack. Mantino teaches a lifting device for allowing heavy objects to be stored on the roof of a vehicle, the lifting device comprising:

- an arm (56) attached to the storage area [R];

- a winch (64) attached to the arm (56);

- a cable (12) so that objects may be lifted to the top of the transport vehicle.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the storage compartment taught by Agustin in view of DiPalma et al. with a lifting device as taught by Mantino in order to allow heavy objects to be placed in a storage position on the roof of a vehicle thereby making use of the space on top of the vehicle.

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vernese in view of Agustin and further in view of DiPalma et al. Vernese US 5,769,478 teaches a livestock trailer comprising:

- a first side support structure (64c);

- a second side support structure (64 d);

- a trailer roof (102) with a vent (111) in said roof (102).

Vernese does not teach a frame located above the trailer roof or a storage compartment. Agustin teaches a roof top carrier comprising:

- first and second side structures (16) for engaging the side of a vehicle;

- a storage chamber spanning the support structures, and positioned above a roof opening (120) such that the opening is not blocked and any weight in the carrier is transferred to the vehicle sides;

- a floor arranged and spaced above the vehicle roof (see figure 3);

- a lid (18) covering the storage chamber and movable between an open and a closed position.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the carrier as taught by Agustin on the trailer taught by Vernese in order to provide a storage area on the top of the trailer without compromising the structural integrity of the trailer roof or blocking the vent therein.

Vernese in view of Agustin do not teach a sealing member for the lid storage compartment for the carrier. DiPalma et al. teach a storage chamber (10) for mounting on a rack, the storage chamber comprising:

- a solid lid (12) covering the storage chamber and movable between an open position and a closed position; and

- a fluid tight seal (16) being placed between the lid (12) and floor member (14) so that no fluid enters the storage chamber when the lid is in the closed position;

- support braces (28,32) between the sides of the rack, that permit air to flow under said storage chamber.

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It would have been obvious to one of ordinary skill in the art, at the time of invention to provide a storage chamber as taught by DiPalma et al. on the trailer and rack system taught by Vernese in view of Agustin in order to store and transport objects and to keep them dry and secure during transit.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vernese in view of Agustin and further in view of DiPalma et al. as applied to claim 10 above, and further in view of Spriggle. Vernese in view of Agustin and further in view of DiPalma et al. teach the limitations of claim 10 as above, they do not teach a ladder for accessing the carrier. Spriggle US 5,844,324 teaches a vehicle (10) with an attached ladder (16) which is used to access the roof of the vehicle. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the vehicle taught by Vernese in view of Agustin and further in view of DiPalma et al. with a ladder as taught by Spriggle in order to easily access the carrier mounted on the roof of the vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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6/2/07



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